STATE OF INDIANA

TO: All Political Subdivisions and County Auditors

FROM: Brian E. Bailey, Commissioner *BEB*

RE: Distribution of Funds from Allocation Areas

DATE: May 27, 2011

Introduction

House Enrolled Act (HEA) 1313-2011 introduces changes that affect the distribution of proceeds from tax increment financing (TIF) districts to prevent windfalls.[1] This memorandum addresses these changes.

Distribution of Funds Derived from Allocation Area

Retroactive to March 1, 2011, HEA 1313-2011 added new sections providing that for taxes first due and payable in 2012 or a subsequent year, if a referendum conducted after April 30, 2010 approves the imposition of property taxes in an allocation area (as defined in IC 6-1.1-21.2-3) to benefit a taxing unit ("unit") for which the referendum was held, the county auditor must distribute these proceeds to that unit.[2] In addition, the amount to be distributed must be treated as part of the referendum levy for purposes of setting tax rates for property taxes imposed after being approved by the voters in a referendum conducted after April 30, 2010.

Allocation of Excess Property Taxes

Effective January 1, 2012, HEA 1313-2011 amends certain statutes to provide that any excess of property taxes approved by voters in a referendum conducted after April 30, 2010 and imposed for an assessment date with respect to which the allocation and distribution of those taxes are made, shall be paid to the unit for which the referendum was conducted.[3]

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[1] Specifically, HEA 1313-2011 adds IC 6-1.1-20-12, IC 20-46-1-10.5, and non-code Section 22, and substantively amends IC 8-22-3.5-9, IC 36-7-14-26, IC 36-7-14-39, IC 36-7-14-48, IC 36-7-15.1-26, IC 36-7-15.1-35, IC 36-7-15.1-53, IC 36-7-30-25, IC 36-7-30.5-30, and IC 36-7-32-17.

[2] These new sections are IC 6-1.1-20-12 (procedures for issuance of bonds and other evidences of indebtedness by political subdivisions) and IC 20-46-1-10.5 (school referendum tax levies).

[3] These statutes are: IC 8-22-3.5-9(d) (airport development zones), IC 36-7-14-39(b) (redevelopment areas and commissions), IC 36-7-15.1-26(b) (economic development project districts), IC 36-7-15.1-53(b) (redevelopment of areas in Marion County), IC 36-7-30-25(b) (reuse of federal military bases), IC 36-7-30.5-30(b) (development of multicounty federal military bases), and IC 36-7-32-17(b) (certified technology parks).

Because of HEA 1313-2011's amendments to IC 36-7-15.1-35 (redevelopment of areas in Marion County; based assessed value) and IC 36-7-14-48 (redevelopment areas and commissions; allocation of property taxes), beginning January 1, 2012, redevelopment commissions will be responsible for determining the amount by which the assessed value of the taxable property in an allocation area, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to make the distribution required under IC 36-7-14-26(b) and 39(b), respectively.

Calculation of Excess Funds

Effective May 10, 2011, non-code Section 22 applies to actions under certain statutes.[4] When an entity determines the sum of excess taxes by calculating the amount by which property taxes payable to an allocation fund or area exceed the amount necessary to carry out the purposes of that fund or area, the entity must first deduct the distributions of property taxes approved by voters in a referendum after April 30, 2010, that are to be distributed after December 31, 2011, to the unit for which the referendum was conducted. Section 22 applies in 2012 only and expires January 1, 2013.

Contact Information

Questions may be directed to Staff Attorney Mike Duffy at 317-233-9219 or mduffy@dlgf.in.gov.

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[4] These statutes are: IC 8-22-3.5-9, IC 36-7-14-39, IC 36-7-14-48, IC 36-7-15.1-26, IC 36-7-15.1-35, IC 36-7-15.1-53, IC 36-7-30-25, IC 36-7-30.5-30, and IC 36-7-32-17.